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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/665,691

09/19/2003

Mark Edward Simek

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EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

07/06/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,691

Applicant(s)

SIMEK ET AL.

Examiner

Charles Shedrick

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 April 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 21-43 is/are pending in the application.
- 4a) Of the above claim(s) 30-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 21-29 and 41-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 4/30/07 has been entered.

Response to Arguments

Applicant's arguments filed 4/30/07 have been fully considered but they are not persuasive.

Applicant Argues Among other missing features in the applied references, Baratono does not disclose a first side face of a mobile phone housing that is substantially perpendicular to the front face and a number keypad disposed in the first side face and consisting of a single aligned row of at least ten depressible input keys numbered from 0 through 9.

2. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

As noted in the previous rejection Tanaka teaches a mobile phone (i.e., cellular phone), comprising: a housing 01 having a front face and a first side face substantially perpendicular to the front face (figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41); a display 02 disposed is and outwardly directed from the front face of the housing (figures 4, 7, 9, 15-18, 20, 24-27, 29, 36-41); and a number keypad disposed in and outwardly directed from the first side face (figures 4,

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7, 9, 15-18, 20, 24-27, 29, 36-41), the number keypad comprising at least ten depressible input keys numbered from 0 through 9.(i.e., see paragraphs 0078-0079, 110,150-153)(figures 12-14).

Baratono teaches the number keypad consisting of a single aligned row of at least ten depressible input keys numbered 0 through 9.

The cellular telephone system 10 comprises a generally rectangular rear view mirror housing or frame 12 that comprises a front wall 14, and a peripheral side wall 16. The walls 14 and 16 cooperate to form a substantially rectangular enclosure having a hollow interior 19.

Disposed about the periphery of the side wall 16 are a plurality of openings 20 in which are disposed a plurality of push buttons 30 which correspond to the numbers, symbols and alphabetical array associated with a telephone. Thus, there is provided on the side wall 16, in essence, a linear array of push buttons which correspond to the numbers of a telephone keypad, including both the star and asterisk as well as the pound sign, and include the digits one through zero, thus defining a linear keypad 31.

Thus the telephone is operable via the keypad disposed on the sidewall.

3. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, The prior art of record teaches input keys for the purpose of improving input capability of the respective mobile devices therefore proper motivation to combine does exist.

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

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Claims **21-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka US Patent Pub No.: 2006/0030375 A1 in view of Baratono et al., hereinafter, 'Baratono' US Patent No.: 6,889,064 B2.

Consider **claim 21**, Tanaka teaches a mobile phone (i.e., cellular phone), comprising: a housing **01** having a front face and a first side face substantially perpendicular to the front face (**figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41**); a display **02** disposed is and outwardly directed from the front face of the housing (**figures 4, 7, 9, 15-18, 20, 24-27, 29, 36-41**); and a number keypad disposed in and outwardly directed from the first side face (**figures 4, 7, 9, 15-18, 20, 24-27, 29, 36-41**), the number keypad comprising at least ten depressible input keys numbered from 0 through 9. (i.e., see **paragraphs 0078-0079, 110, 150-153**)(**figures 12-14**).

However, Tanaka does not teach the number keypad consisting of a single aligned row of at least ten depressible input keys numbered 0 through 9.

In analogous art, Baratono teaches the number keypad consisting of a single aligned row of at least ten depressible input keys numbered 0 through 9 (i.e., see figures and col. 3 line 64- col. 4 line 5). Baratono teaches that disposed about the periphery of the side wall 16 are a plurality of openings 20 in which are disposed a plurality of push buttons 30 which correspond to the numbers, symbols and alphabetical array associated with a telephone. Thus, there is provided on the side wall 16, in essence, a linear array of push buttons which correspond to the numbers of a telephone **key** pad, including both the star and asterisk as well as the pound sign, and include the digits one through zero, thus defining a linear **key** pad 31.

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tanaka to include a linear keypad 31 on a side wall 16 for the purpose of space efficiency or safety as taught by Baratono.

Consider **claim 23 and as applied to the mobile phone of claim 21**, Tanaka as modified by Baratono teaches wherein the side face has a length and depth, wherein the at least ten depressible input keys are linearly aligned on the side face (**figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41**).

Consider **claims 24 and as applied to the mobile phone of claims 2**, Tanaka as modified by Baratono teaches wherein the first side face is a right side face with respect to the front face such that the number keypad is on the right side face (i.e., keypads are on both side faces)(**figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41**).

Consider **claims 26 and as applied to the mobile phone of claims 21**, Tanaka as modified by Baratono teaches wherein the first side face is a left side face with respect to the front face such that the number keypad is on the left side face (i.e., keypads are on both side faces) (**figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41**).

Consider **claim 28 and as applied to the mobile phone of claim 21**, Tanaka as modified by Baratono teaches wherein the front face has a width W and a length L, and wherein a ratio of the length L to the width W is greater than 4(**figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41**).

Consider **claim 29 and as applied to the mobile phone of claims 21**, Tanaka as modified by Baratono teaches wherein the number keypad further comprises a "*" key and a "#" key (i.e., see **figures 12-14**), and wherein the at least ten depressible input keys numbered from 0

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through 9 further correspond to letters "a" through "z" in conformance with a standard telephone keypad (i.e., see **figures 12-14**).

Consider **claims 22,25,and 27 and as applied to claims 21 and 22**, Tanaka teaches wherein the number keypad are disposed on the first side face and the key are disposed on the left side face and right side faces (i.e., keypads are on both side faces)(**figures 4, 6, 7, 9, 16-18, 20, 24-29, and 36-41**). It is noted that the language used by the applicant merely discloses the orientation in which the phone is held by the user. The manner of operating or holding the device does not differentiate apparatus claim from prior art (i.e., see MPEP 2114) .

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka US Patent Pub No.: 2006/0030375 A1 in view of Baratono et al., hereinafter, 'Baratono' US Patent No.: 6,889,064 B2 and further in view of Hama US 2002/0045467 A1.

Consider **claim 42**, Tanaka as modified by Baratona teaches the claimed invention except a thumbpad disposed in and outwardly directed from the front face of the housing and below the display; the thumbpad utilized for display navigation and display option selection.

In the same field of endeavor, Hama teaches a thumbpad **104** disposed in and outwardly directed from the front face of the housing and below the display **102**; the thumbpad for display navigation and display option selection (**paragraph 0081 and figure 1a**).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tanaka as modified by Baratona to include a thumbpad disposed in and outwardly directed from the front face of the housing and below the display; the thumbpad for display navigation and display option selection as taught by Hama for the purpose of scrolling items on the display.

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Claim **43** is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka US Patent Pub No.: 2006/0030375 A1 and further in view of Baratono et al., hereinafter, 'Baratono' US Patent No.: 6,889,064 B2 and further in view of Brandis US D497,601 S

Consider **claim 43**, Tanaka as modified by Baratona teaches the claimed invention except wherein the depressible input keys at least partially overlap the front face.

In the same field of endeavor, Brandis teaches wherein the depressible input keys at least partially overlap the front face (see figures 1 and 3).

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tanaka as modified by Baratona to include wherein the depressible input keys at least partially overlap the front face for the purpose of design.

Claim **41** is rejected under 35 U.S.C. 103(a) as being unpatentable over Tanaka US Patent Pub No.: 2006/0030375 A1 and further in view of Baratono et al., hereinafter, 'Baratono' US Patent No.: 6,889,064 B2 and further in view of Allard et al. US Patent No.: 5,422,656

Consider **claim 41**, Tanaka as modified by Baratona teaches the claimed invention except wherein the front-face is keypad-less.

In the same field of endeavor Allard teaches wherein the front-face is keypad-less.

Therefore it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Tanaka as modified by Baratona to include wherein wherein the front-face is keypad-less for the purpose of improved touch screen design.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Sony Corp. JP2001-265490 - Teaches keys linearly aligned on side face perpendicular to front face.

Matsushita Electric Ind. Co. Ltd. JP2000-15774- teaches a number of applicants claimed limitations

Andress US Patent number 6,697,639 B2 teaches thumbpad below display for navigating display.

Shkolnikov US Patent No. 6,947,028 b2 teaches keys aligned on side face perpendicular to front face. Also note the phone orientation is based on right hand or left hand use.

Gambaro US Patent number 5,332,322 teaches keys aligned on side face perpendicular to front face.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles Shedrick whose telephone number is (571)-272-8621. The examiner can normally be reached on Monday thru Friday 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kincaid Lester can be reached on (571)-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Charles Shedrick
AU 2617
June 23, 2007


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SUPERVISORY PATENT EXAMINER